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January 17, 2013

The Honorable Joe Bolkcom, State Senator
The Honorable Sharon Steckman, State Representative
State Capitol
L-O-C-A-L

Dear Senator Bolkcom and Representative Steckman:

You have requested an opinion of our office addressing whether an ordinance passed by the City of Grimes that requires bicyclists to use available bike paths instead of city streets denies bicyclists the right to use the roadways and, therefore, violates the municipal home rule amendment to the Iowa Constitution and Iowa Code sections 321.234(2) and 321.236(10). In our view an ordinance limiting access to the roadways by bicyclist conflicts with state statutes. Because we believe your question is answered by the plain language of existing statutes, we are responding by this letter of informal advice.

The ordinance quoted in your opinion request appears to be specific to a particular street: "Where a usable path for bicycles has been provided adjacent to the roadway, bicycle riders shall use such path and shall not use the roadway known as S James Street from the south Sports Complex to the south city limits of Grimes."

Bicycles are addressed in state statutes in Iowa Code chapter 321 which regulates the roadways. Bicyclists are authorized to use the roadways under Iowa Code section 321.234 which specifically states that "[a] person . . . riding a bicycle on the highway is subject to the provisions of this chapter and *has all the rights and duties under this chapter applicable to the driver of a vehicle . . .*" Iowa Code § 321.234(2) (2011) (emphasis added).

In addition, state statutes prohibit local governments from enacting ordinances that conflict with the rights conferred on bicyclists in section 321.234. Iowa Code section 321.236 provides: "Local authorities shall have no power to enact, enforce, or maintain

The Honorable Joe Bolkcom, State Senator
The Honorable Sharon Steckman, State Representative
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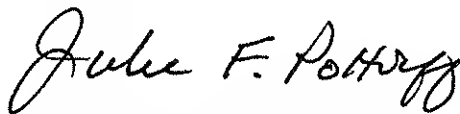
any ordinance, rule, or regulation in any way in conflict with, contrary to, or inconsistent with the provisions of this chapter, and no such ordinance, rule, or regulation of said local authorities heretofore or hereafter enacted shall have any force or effect." Iowa Code § 321.236. Local authorities are expressly authorized to take action "[r]egulating the operation of bicycles and requiring the registration and licensing of the same, including the requirement of a registration fee." But this authority is limited by the legislative directive that "the regulations shall not conflict with the provisions of section 321.234." Iowa Code § 321.236(10).

The Iowa Supreme Court recognized the right of bicyclists to use the roadways in *Vasconez v. Mills* where, in the context of tort litigation stemming from a motor vehicle-bicycle accident, the court observed: "By statute, a bicyclist in Iowa is subject to the rules of the road and 'has all the rights and duties ... applicable to the driver of a vehicle.'" Specifically addressing the assertion that the bicyclist was riding on a county road rather than using an available bike path as well as riding alone and riding in a westerly direction near sunset, the court observed that "none of this conduct is illegal." *Vasconez v. Mills*, 651 N.W.2d 48, 52-53 (Iowa 2002).

In light of the statutory language in Iowa Code chapter 321, we believe it is clear that the City of Grimes cannot by ordinance prohibit bicycles from using the roadways, including a city street, and require bicyclists instead to use a bike path that is available. The Municipal Home Rule amendment to the Iowa Constitution only grants cities the authority to take action that is not inconsistent with state law. *Kennedy v. Civil Service Com'n of City of Council Bluffs*, 654 N.W.2d 511, 512 (Iowa 2002). It is, therefore, unnecessary for us to further analyze the impact of this amendment. See Iowa Const., art III., § 38A ("Municipal corporations are granted home rule power and authority, *not inconsistent with the laws of the general assembly*, to determine their local affairs and government. . . .")(emphasis added).

I hope this letter of informal advice resolves the issue.

Sincerely,

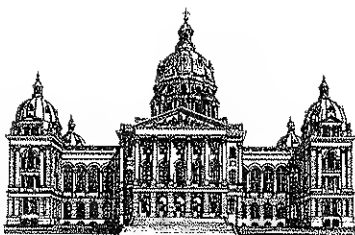


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State of Iowa
Eighty-Fourth General Assembly
STATEHOUSE
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ATTORNEY GENERAL
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November 15, 2012

Attorney General Tom Miller
Iowa State Capitol
Des Moines, IA 50319

Dear Attorney General Miller,

Senator Joe Bolkcom and Representative Sharon Steckman respectfully request an opinion on the issue mentioned below.

On October 9, 2012, the City Council for the City of Grimes, Iowa passed ordinance number 605 which contains chapter 76.12B. It reads "Where a useable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway known as S James Street from the south Sports Complex to the south city limits of Grimes;" . Does local ordinance 76.12B violate state law because it conflicts with the Iowa Constitution 38.A, and Iowa Code 321.236(10) and 321.234(2) by prohibiting and thereby denying bicycle riders the right to use the S James Street roadway?

Thank you,

Senator Joe Bolkcom

A handwritten signature in black ink, appearing to read "Joe Bolkcom", with a stylized, flowing script.

Representative Sharon Steckman

A handwritten signature in black ink, appearing to read "Sharon Steckman", with a stylized, flowing script.